

State of Arizona
House of Representatives
Forty-fifth Legislature
Second Regular Session
2002

CHAPTER 259

HOUSE BILL 2071

AN ACT

AMENDING SECTION 33-707, ARIZONA REVISED STATUTES; AMENDING TITLE 33, CHAPTER 6, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 33-714 AND 33-715; AMENDING SECTIONS 33-811 AND 42-15203, ARIZONA REVISED STATUTES; RELATING TO MORTGAGES AND DEEDS OF TRUST.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 33-707, Arizona Revised Statutes, is amended to
3 read:

4 33-707. Acknowledgment of satisfaction; recording

5 A. If a mortgagee, trustee or person entitled to payment receives full
6 satisfaction of a mortgage or deed of trust, he shall acknowledge
7 satisfaction of the mortgage or deed of trust by delivering to the person
8 making satisfaction or by recording a sufficient release or satisfaction of
9 mortgage or deed of release and reconveyance of the deed of trust, which
10 release, satisfaction of mortgage or deed of release and reconveyance shall
11 contain the docket and page number or recording number of the mortgage or
12 deed of trust. It shall not be necessary for the trustee to join in the
13 acknowledgment or satisfaction, or in the release, satisfaction of mortgage
14 or deed of release and reconveyance. The recorded release or satisfaction
15 of mortgage or deed of release and reconveyance constitutes conclusive
16 evidence of full or partial satisfaction and release of the mortgage or deed
17 of trust in favor of purchasers and encumbrancers for value and without
18 actual notice.

19 B. When a mortgage or deed of trust is satisfied by a release or
20 satisfaction of mortgage or deed of release and reconveyance, except where
21 the record of such deed of trust or mortgage has been destroyed or reduced
22 to microfilm, the recorder shall record the release or satisfaction of the
23 deed of trust or mortgage showing the book and page or recording number where
24 the deed of trust or mortgage is recorded.

25 C. If the record of such mortgage or deed of trust has been destroyed
26 and the record thereof reduced to microfilm, it shall be sufficient evidence
27 of satisfaction of any such mortgage or deed of trust for the release or
28 satisfaction of mortgage or deed of release and reconveyance to be recorded
29 and indexed as such. The instrument shall sufficiently identify the mortgage
30 or deed of trust by parties and by book and page or recording number of the
31 official records. Such instrument shall be treated as a release or
32 satisfaction of mortgage or deed of release and reconveyance and recorded.

33 D. If the note secured by a mortgage or deed of trust has been lost
34 or destroyed, the assignee, mortgagee or beneficiary shall, before
35 acknowledging satisfaction, make an affidavit that he is the lawful owner of
36 the note and that it has been paid, but cannot be produced for the reason
37 that it has been lost or destroyed, and the affidavit shall be recorded. If
38 the record of such mortgage or deed of trust has been destroyed and the
39 record thereof reduced to microfilm, such affidavit shall be recorded and
40 indexed as releases, satisfactions of mortgage and deeds of release and
41 reconveyance are recorded and indexed and shall have the same force and
42 effect as a release or satisfaction of a mortgage or deed of release and
43 reconveyance as provided in subsection A of this section.

1 E. If a full or ~~partial~~ release or satisfaction of mortgage or deed
2 of release and reconveyance of deed of trust, ~~which~~ THAT, according to its
3 terms, recites that it secures an obligation having a stated indebtedness not
4 greater than five hundred thousand dollars exclusive of interest, OR A
5 PARTIAL RELEASE OR SATISFACTION OF MORTGAGE OR PARTIAL DEED OF RELEASE AND
6 RECONVEYANCE OF DEED OF TRUST THAT, ACCORDING TO ITS TERMS, RECITES THAT THE
7 PAYMENT REQUIRED FOR THE PARTIAL SATISFACTION OR RELEASE DOES NOT EXCEED FIVE
8 HUNDRED THOUSAND DOLLARS EXCLUSIVE OF INTEREST, has not been executed and
9 recorded pursuant to subsection A or C of this section within sixty days of
10 full or partial satisfaction of the obligation secured by such mortgage or
11 deed of trust, then a title insurer as defined in section 20-1562 may
12 prepare, execute and record a full or partial release or satisfaction of
13 mortgage or deed of full or partial release and reconveyance of deed of
14 trust. NO EARLIER THAN SIXTY DAYS AFTER FULL OR PARTIAL SATISFACTION AND at
15 least thirty days prior to the issuance and recording of any such release or
16 satisfaction of mortgage or deed of release and reconveyance pursuant to this
17 subsection, the title insurer shall mail by certified mail with postage
18 prepaid, return receipt requested, to the mortgagee of record or to the
19 trustee and beneficiary of record and their respective successors in interest
20 of record at their last known address shown of record and to any persons who
21 according to the records of the title insurer received payment of the
22 obligation at the address shown in such records, a notice of its intention
23 to release the mortgage or deed of trust accompanied by a copy of the release
24 or satisfaction of mortgage or deed of release and reconveyance to be
25 recorded which shall set forth:

26 1. The name of the beneficiary or mortgagee or any successors in
27 interest of record of such mortgagee or beneficiary and, if known, the name
28 of any servicing agent.

29 2. The name of the original mortgagor or trustor.

30 3. The name of the current record owner of the property and if the
31 release or satisfaction of mortgage or deed of release and reconveyance is
32 a partial release, the name of the current record owner of the parcel
33 described in the partial release or satisfaction of mortgage or deed of
34 partial release and reconveyance of deed of trust.

35 4. The recording reference to the deed of trust or mortgage.

36 5. The date and amount of payment, if known.

37 6. A statement that the title insurer has actual knowledge that the
38 obligation secured by the mortgage or deed of trust has been paid in full,
39 or if the release or satisfaction of mortgage or deed of release and
40 reconveyance of deed of trust is a partial release, a statement that the
41 title insurer has actual knowledge that the partial payment required for the
42 release of the parcel described in the partial release or satisfaction has
43 been paid.

1 F. The release or satisfaction of mortgage or release and reconveyance
2 of deed of trust may be executed by a duly appointed attorney-in-fact of the
3 title insurer, but such delegation shall not relieve the title insurer from
4 any liability pursuant to this section.

5 G. A full or partial release or satisfaction of mortgage or deed of
6 full or partial release and reconveyance of deed of trust issued pursuant to
7 subsection E of this section shall be entitled to recordation and, when
8 recorded, shall constitute a full or partial release or satisfaction of
9 mortgage or deed of release and reconveyance of deed of trust issued pursuant
10 to subsection A or C of this section.

11 H. Where an obligation secured by a deed of trust or mortgage was paid
12 in full prior to September 21, 1991, and no release or satisfaction of
13 mortgage or deed of release and reconveyance of deed of trust ~~has been~~ WAS
14 issued and recorded ~~within sixty days of September 21, 1991~~ BY NOVEMBER 20,
15 1991, a release or satisfaction of mortgage or deed of release and
16 reconveyance of deed of trust as provided for in subsection E of this section
17 may be prepared and recorded without the notice prescribed by subsection E
18 of this section.

19 I. A release or satisfaction of mortgage or a release and reconveyance
20 of deed of trust by a title insurer under the provisions of subsection E of
21 this section shall not constitute a defense nor release any person from
22 compliance with subsections A through D of this section or from liability
23 under section 33-712.

24 J. In addition to any other remedy provided by law, a title insurer
25 preparing or recording the release and satisfaction of mortgage or the
26 release and reconveyance of deed of trust pursuant to subsection E of this
27 section shall be liable to any party for actual damage, including attorneys'
28 ATTORNEY fees, which any person may sustain by reason of the issuance and
29 recording of the release and satisfaction of mortgage or release and
30 reconveyance of deed of trust.

31 K. The title insurer shall not record a release and satisfaction of
32 mortgage or release and reconveyance of deed of trust if, prior to the
33 expiration of the thirty day period specified in subsection E of this
34 section, the title insurer receives a notice from the mortgagee, trustee,
35 beneficiary, holder or servicing agent which states that the mortgage or deed
36 of trust continues to secure an obligation, or in the case of a partial
37 release or satisfaction of mortgage or deed of partial release and
38 reconveyance of deed of trust, a notice that states that the partial payment
39 required to release the parcel described in the partial release or
40 satisfaction has not been paid.

41 L. The title insurer may charge a reasonable fee to the owner of the
42 land or other person requesting a release and satisfaction of mortgage or
43 release and reconveyance of deed of trust FOR SERVICES, including but not
44 limited to search of title, document preparation and mailing services
45 rendered, and may in addition collect official fees.

1 Sec. 2. Title 33, chapter 6, article 1, Arizona Revised Statutes, is
2 amended by adding sections 33-714 and 33-715, to read:

3 33-714. Expiration of mortgage and deed of trust; applicability

4 A. THE LIEN OF ANY MORTGAGE OR DEED OF TRUST ON ANY REAL PROPERTY THAT
5 IS NOT OTHERWISE SATISFIED OR DISCHARGED EXPIRES AT THE LATER OF THE
6 FOLLOWING TIMES:

7 1. IF THE FINAL MATURITY DATE OR THE LAST DATE FIXED FOR PAYMENT OF
8 THE DEBT OR PERFORMANCE OF THE OBLIGATION IS ASCERTAINABLE FROM THE COUNTY
9 RECORDER'S RECORDS, TEN YEARS AFTER THAT DATE.

10 2. IF THE FINAL MATURITY DATE OR THE LAST DATE FIXED FOR PAYMENT OF
11 THE DEBT OR PERFORMANCE OF THE OBLIGATION IS NOT ASCERTAINABLE FROM THE
12 COUNTY RECORDER'S RECORDS OR IF THERE IS NO FINAL MATURITY DATE OR LAST DATE
13 FIXED FOR PAYMENT OF THE DEBT OR PERFORMANCE OF THE OBLIGATION, FIFTY YEARS
14 AFTER THE DATE THE MORTGAGE OR DEED OF TRUST WAS RECORDED.

15 3. IF A NOTICE OF INTENT TO PRESERVE MORTGAGE OR DEED OF TRUST IS
16 RECORDED WITHIN THE TIME PRESCRIBED IN PARAGRAPH 1 OR 2, TEN YEARS AFTER THE
17 DATE THE NOTICE IS RECORDED.

18 B. THE NOTICE OF INTENT TO PRESERVE MORTGAGE OR DEED OF TRUST SHALL
19 BE EXECUTED BY THE OWNER OF THE OBLIGATION SECURED BY THE MORTGAGE OR DEED
20 OF TRUST AND SHALL CONTAIN THE INSTRUMENT NUMBER OR RECORDER'S NUMBER OF THE
21 MORTGAGE OR DEED OF TRUST.

22 C. EXPIRATION OF THE LIEN OF A MORTGAGE OR DEED OF TRUST PURSUANT TO
23 THIS SECTION IS EQUIVALENT FOR ALL PURPOSES TO A SATISFACTION, RECONVEYANCE,
24 RELEASE OR OTHER DISCHARGE OF THE LIEN.

25 D. THIS SECTION APPLIES TO ALL MORTGAGES OR DEEDS OF TRUST WHETHER
26 CREATED BEFORE OR AFTER THE EFFECTIVE DATE OF THIS SECTION.

27 33-715. Payoff demands; definitions

28 A. ON THE WRITTEN DEMAND OF AN ENTITLED PERSON OR THAT PERSON'S
29 AUTHORIZED AGENT, A BENEFICIARY OR THE BENEFICIARY'S AUTHORIZED AGENT SHALL
30 PREPARE AND DELIVER A PAYOFF DEMAND STATEMENT TO THE PERSON WHO HAS REQUESTED
31 IT WITHIN FOURTEEN DAYS AFTER RECEIPT OF THE DEMAND.

32 B. THE PAYOFF DEMAND STATEMENT SHALL PROVIDE THE AMOUNTS REQUIRED AS
33 OF THE DATE OF PREPARATION AND SHALL INCLUDE THE INFORMATION REASONABLY
34 NECESSARY TO CALCULATE THE PAYOFF AMOUNT ON A PER DIEM BASIS FOR THE TIME
35 THAT THE PER DIEM AMOUNT REMAINS UNCHANGED AS PROVIDED IN THE NOTE BUT NOT
36 TO EXCEED THIRTY DAYS.

37 C. THE ENTITLED PERSON OR THAT PERSON'S AUTHORIZED AGENT MAY RELY ON
38 A PAYOFF DEMAND STATEMENT FOR THE PURPOSE OF ESTABLISHING THE AMOUNT
39 NECESSARY TO PAY THE OBLIGATION IN FULL AND OBTAIN A RELEASE OF THE MORTGAGE
40 OR DEED OF TRUST THAT SECURES THE OBLIGATION THROUGH AND INCLUDING THE TIME
41 SET FORTH IN THE PAYOFF DEMAND STATEMENT AS PROVIDED IN SUBSECTION I,
42 PARAGRAPH 5.

43 D. THE ENTITLED PERSON OR THAT PERSON'S AUTHORIZED AGENT MAY RELY ON
44 AN AMENDED PAYOFF DEMAND STATEMENT IF THE BENEFICIARY DELIVERS THAT AMENDED

1 PAYOFF DEMAND STATEMENT TO THE ENTITLED PERSON OR THAT PERSON'S AUTHORIZED
2 AGENT BEFORE THE EARLIER OF:

3 1. THE TRANSFER OF TITLE TO THE MORTGAGED OR TRUST PROPERTY OR ANY
4 PORTION OF THE PROPERTY.

5 2. THE RECORDATION OF A MORTGAGE OR DEED OF TRUST DESCRIBING THE
6 MORTGAGED OR TRUST PROPERTY OR ANY PORTION OF THE PROPERTY.

7 E. FOR NOTES CREATED OR RENEGOTIATED AFTER THE EFFECTIVE DATE OF THIS
8 ACT, ANY SUMS THAT WERE DUE THE BENEFICIARY AND THAT WERE NOT INCLUDED IN THE
9 PAYOFF DEMAND STATEMENT OR IN ANY AMENDED STATEMENT CONSTITUTE AN UNSECURED
10 OBLIGATION OF THE OBLIGOR PURSUANT TO THE TERMS OF THE NOTE AND ARE
11 RECOVERABLE BY THE BENEFICIARY PURSUANT TO THE TERMS OF THE NOTE AND AS
12 OTHERWISE PROVIDED BY LAW.

13 F. A BENEFICIARY WHO WILLFULLY FAILS TO PREPARE AND DELIVER A PAYOFF
14 DEMAND STATEMENT FOR FOURTEEN OR MORE DAYS AFTER RECEIPT OF A WRITTEN DEMAND
15 IS LIABLE TO THE ENTITLED PERSON FOR ALL DAMAGES SUSTAINED FOR FAILURE TO
16 DELIVER THE STATEMENT. THE BENEFICIARY IS ALSO LIABLE TO THE ENTITLED PERSON
17 FOR FIVE HUNDRED DOLLARS WHETHER OR NOT ACTUAL DAMAGES ARE SUSTAINED. EACH
18 FAILURE OF THE BENEFICIARY TO PREPARE AND DELIVER THE PAYOFF DEMAND STATEMENT
19 WHEN REQUIRED TO DO SO PURSUANT TO THIS SECTION CONSTITUTES A SEPARATE CAUSE
20 OF ACTION. A JUDGMENT THAT AWARDS AN ENTITLED PERSON A FORFEITURE OR DAMAGES
21 OR BOTH FOR ANY FAILURE TO PREPARE AND DELIVER A PAYOFF DEMAND STATEMENT BARS
22 RECOVERY OF ANY OTHER DAMAGES OR FORFEITURE FOR ANY OTHER FAILURE TO PREPARE
23 AND DELIVER A STATEMENT WITH RESPECT TO THE SAME OBLIGATION, IF THE OTHER
24 DEMAND FOR THE STATEMENT WAS MADE WITHIN SIX MONTHS BEFORE OR AFTER THE
25 DEMAND WAS MADE THAT RESULTED IN THE AWARD. FOR PURPOSES OF THIS SUBSECTION,
26 "WILLFULLY" MEANS A FAILURE TO COMPLY WITH THIS SECTION WITHOUT JUST CAUSE
27 OR EXCUSE.

28 G. IF THE BENEFICIARY HAS MORE THAN ONE BRANCH, OFFICE OR OTHER PLACE
29 OF BUSINESS, THE PAYOFF STATEMENT DEMAND SHALL BE MADE TO THE BRANCH OR
30 OFFICE ADDRESS PROVIDED IN THE PAYMENT BILLING NOTICE OR PAYMENT
31 BOOK. UNLESS THE PAYOFF DEMAND STATEMENT PROVIDES OTHERWISE, THE STATEMENT
32 IS DEEMED TO APPLY ONLY TO THE UNPAID BALANCE OF THE SINGLE OBLIGATION THAT
33 IS NAMED IN THE DEMAND AND THAT IS SECURED BY THE MORTGAGE OR DEED OF TRUST
34 THAT IS PAYABLE AT THE ADDRESS THAT IS PROVIDED IN THE PAYMENT BILLING NOTICE
35 OR PAYMENT BOOK.

36 H. THE DEMAND FOR AND PREPARATION AND DELIVERY OF A PAYOFF DEMAND
37 STATEMENT PURSUANT TO THIS SECTION DOES NOT CHANGE ANY DATE OR TIME PERIOD
38 THAT IS PRESCRIBED IN THE NOTE OR THAT IS OTHERWISE PROVIDED BY LAW.

39 I. THE BENEFICIARY OF A MORTGAGEE MAY ASSESS A FEE OF NO MORE THAN
40 THIRTY DOLLARS FOR FURNISHING EACH PAYOFF DEMAND STATEMENT. THIS IS
41 CONCLUSIVELY PRESUMED TO BE REASONABLE.

42 J. FOR THE PURPOSES OF THIS SECTION, UNLESS THE CONTEXT OTHERWISE
43 REQUIRES:

44 1. "BENEFICIARY" MEANS A MORTGAGEE OR BENEFICIARY OF A MORTGAGE OR
45 DEED OF TRUST OR AN ASSIGNEE OF A MORTGAGEE OR BENEFICIARY.

1 2. "DELIVER" OR "DELIVERY" MEANS DEPOSITING OR CAUSING TO BE DEPOSITED
2 INTO THE UNITED STATES MAIL AN ENVELOPE WITH POSTAGE PREPAID THAT CONTAINS
3 A COPY OF THE DOCUMENTS TO BE DELIVERED AND THAT IS ADDRESSED TO THE PERSON
4 WHOSE NAME AND ADDRESS ARE PROVIDED IN THE PAYOFF DEMAND. DELIVERY INCLUDES
5 TRANSMITTING THOSE DOCUMENTS BY TELEFACSIMILE MACHINE TO THE
6 PERSON. DELIVERY INCLUDES TRANSMITTING THOSE DOCUMENTS ELECTRONICALLY
7 PURSUANT TO TITLE 44, CHAPTER 26 IF THE PAYOFF DEMAND SPECIFICALLY REQUESTS
8 AND AUTHORIZES THAT THE DOCUMENTS BE TRANSMITTED IN ELECTRONIC FORM.

9 3. "ENTITLED PERSON" MEANS THE TRUSTOR OR MORTGAGOR OF THE MORTGAGED
10 OR TRUST PROPERTY OR ANY PART OF THAT PROPERTY, ANY SUCCESSOR IN INTEREST TO
11 THE TRUSTOR OR MORTGAGOR, ANY PERSON WITH A LIEN OR ENCUMBRANCE OF RECORD ON
12 THE MORTGAGED OR TRUST PROPERTY AND AN ESCROW AGENT THAT IS LICENSED PURSUANT
13 TO TITLE 6.

14 4. "PAYOFF DEMAND" MEANS A WRITTEN DEMAND FOR A PAYOFF DEMAND
15 STATEMENT MADE BY AN ENTITLED PERSON OR THAT PERSON'S AUTHORIZED AGENT.

16 5. "PAYOFF DEMAND STATEMENT" MEANS A WRITTEN STATEMENT THAT IS
17 PREPARED IN RESPONSE TO A WRITTEN DEMAND MADE BY AN ENTITLED PERSON OR THAT
18 PERSON'S AUTHORIZED AGENT THAT SETS FORTH THE AMOUNTS REQUIRED BY THE
19 BENEFICIARY TO FULLY SATISFY ALL OF THE OBLIGATIONS SECURED BY THE LOAN THAT
20 IS THE SUBJECT OF THE DEMAND.

21 Sec. 3. Section 33-811, Arizona Revised Statutes, is amended to read:

22 33-811. Payment of bid; trustee's deed

23 A. The highest bidder at the sale, other than the beneficiary to the
24 extent of the credit bid, shall pay the price bid by no later than 5:00 p.m.
25 of the following day, other than a Saturday or legal holiday. If the highest
26 bidder fails to pay the amount bid for the property struck off to the bidder
27 at the sale, the trustee, in the trustee's sole discretion, shall either
28 continue the sale to reopen bidding or immediately offer the trust property
29 to the second highest bidder who may purchase the trust property at that
30 bidder's bid price. The deposit of the highest bidder who fails to pay the
31 amount bid shall be forfeited and shall be treated as additional sale
32 proceeds to be applied in accordance with section 33-812, subsection A. If
33 the second highest bidder does not pay that bidder's bid price by 5:00 p.m.
34 of the next day excluding Saturdays and legal holidays after the property has
35 been offered to that bidder by the trustee, the trustee shall either continue
36 the sale to reopen bidding or offer the trust property to each of the prior
37 bidders on successive days excluding Saturdays and legal holidays in order
38 of their highest bid, until a bid price is paid, or if there is no other
39 bidder, the sale shall be deemed to be continued to a time and place
40 designated by the trustee, or if not designated, the sale shall be continued
41 to the same place and at the same time twenty-eight days after the last
42 scheduled sale date. If the twenty-eighth day is a Saturday or legal
43 holiday, the sale shall be continued to the next business day. If the sale
44 is continued, the trustee shall provide notice of the continuation of the
45 sale by registered or certified mail, with postage prepaid, to all bidders

1 who provide their names, addresses and telephone numbers in writing to the
2 party conducting the sale. In addition to the forfeit of deposit, a highest
3 bidder who fails to pay the amount bid by that bidder is liable to any person
4 who suffers loss or expenses as a result, including attorney fees. In any
5 subsequent sale of trust property, the trustee may reject any bid of that
6 person. In any sale that is continued pursuant to this subsection, the
7 trustee shall reject the bid from any previous bidder who elected not to pay
8 that bidder's bid price.

9 B. The price bid shall be paid at the office of the trustee or the
10 trustee's agent, or any other reasonable place designated by the
11 trustee. The payment of the bid price may be made at a later time if agreed
12 upon in writing by the trustee. The trustee shall execute and deliver the
13 trustee's deed to the purchaser within seven business days after receipt of
14 payment by the trustee or the trustee's agent made in a form that is
15 satisfactory to the trustee. The trustee's deed shall raise the presumption
16 of compliance with the requirements of the deed of trust and this chapter
17 relating to the exercise of the power of sale and the sale of the trust
18 property, including recording, mailing, publishing and posting of notice of
19 sale and the conduct of the sale. A trustee's deed shall constitute
20 conclusive evidence of the meeting of those requirements in favor of
21 purchasers or encumbrancers for value and without actual notice. Knowledge
22 of the trustee shall not be imputed to the beneficiary.

23 C. THE TRUSTOR, ITS SUCCESSORS OR ASSIGNS, AND ALL PERSONS TO WHOM THE
24 TRUSTEE MAILS A NOTICE OF A SALE UNDER A TRUST DEED PURSUANT TO SECTION
25 33-809 SHALL WAIVE ALL DEFENSES AND OBJECTIONS TO THE SALE NOT RAISED IN AN
26 ACTION THAT RESULTS IN THE ISSUANCE OF A COURT ORDER GRANTING RELIEF PURSUANT
27 TO RULE 65, ARIZONA RULES OF CIVIL PROCEDURE, ENTERED BEFORE 5:00 P.M. ON THE
28 LAST DAY OTHER THAN SATURDAY, SUNDAY OR OTHER LEGAL HOLIDAY BEFORE THE
29 SCHEDULED DATE OF THE SALE. A COPY OF THE ORDER, THE APPLICATION FOR THE
30 ORDER AND THE COMPLAINT SHALL BE DELIVERED TO THE TRUSTEE WITHIN TWENTY-FOUR
31 HOURS AFTER ENTERING THE ORDER.

32 D. A SALE IS NOT COMPLETE IF THE SALE VIOLATES SUBSECTION C OF THIS
33 SECTION BECAUSE OF AN UNDISCLOSED ORDER ENTERED BY THE COURT WITHIN THE TIME
34 PROVIDED FOR IN SUBSECTION C OF THIS SECTION. A SALE HELD IN VIOLATION OF
35 SUBSECTION C OF THIS SECTION SHALL BE CONTINUED TO A DATE, TIME AND PLACE
36 ANNOUNCED BY THE TRUSTEE AT THE SALE AND SHALL COMPLY WITH SECTION 33-810,
37 SUBSECTION B. IF NOT ANNOUNCED, THE SALE SHALL BE CONTINUED TO THE SAME
38 PLACE AND AT THE SAME TIME TWENTY-EIGHT DAYS LATER. IF THE TWENTY-EIGHTH DAY
39 FALLS ON A SATURDAY, SUNDAY OR OTHER LEGAL HOLIDAY, THE SALE SHALL BE
40 CONTINUED TO THE NEXT BUSINESS DAY. IF THE SALE IS CONTINUED BECAUSE OF AN
41 UNKNOWN OR UNDISCLOSED ORDER AS PROVIDED IN THIS SUBSECTION, THE TRUSTEE
42 SHALL NOTIFY BY REGISTERED OR CERTIFIED MAIL, WITH POSTAGE PREPAID, ALL
43 BIDDERS WHO PROVIDE NAMES, ADDRESSES AND TELEPHONE NUMBERS IN WRITING TO THE
44 PARTY CONDUCTING THE SALE OF THE CONTINUATION OF THE SALE.

1 ~~C.~~ E. The trustee's deed shall operate to convey to the purchaser the
2 title, interest and claim of the trustee, the trustor, the beneficiary, their
3 respective successors in interest and all persons claiming the trust property
4 sold by or through them, including all interest or claim in the trust
5 property acquired subsequent to the recording of the deed of trust and prior
6 to delivery of the trustee's deed. That conveyance shall be absolute without
7 right of redemption and clear of all liens, claims or interests that have a
8 priority subordinate to the deed of trust and shall be subject to all liens,
9 claims or interests that have a priority senior to the deed of trust.

10 Sec. 4. Section 42-15203, Arizona Revised Statutes, is amended to
11 read:

12 42-15203. Affidavit of affixture

13 A. A person who owns a mobile home that is permanently affixed to real
14 property may file an affidavit of affixture with the county recorder of the
15 county in which the real property is located.

16 B. An affidavit of affixture shall contain all of the following:

17 1. The vehicle identification numbers of the mobile home.

18 2. The legal description of the real property to which the mobile home
19 has been affixed.

20 3. A statement that the mobile home has not previously been assessed
21 and taxed in this state as personal property or the name and address of the
22 person to whom the last tax statement for the mobile home was sent and the
23 location of the mobile home when it was last taxed.

24 4. The name of the holder of any security interests in the mobile home
25 that are not terminated by consent of the secured party contained on the
26 affidavit of affixture pursuant to subsection C of this section and the
27 original principal amount secured by the security interest.

28 5. As an attachment, the department of transportation's receipt issued
29 pursuant to section 28-2063, subsection A, paragraph 3.

30 C. The recording of an affidavit of affixture does not impair the
31 rights of any holder of a perfected security interest in the mobile home
32 unless the affidavit of affixture contains the acknowledged consent of the
33 secured party to the termination of the security interest. If a secured
34 party so consents, that security interest terminates when the affidavit of
35 affixture is recorded.

36 D. If an affidavit of affixture is submitted for recording on a mobile
37 home entering this state for sale or installation, a certificate of
38 compliance or waiver issued by the office of manufactured housing is required
39 and shall be submitted with the affidavit of affixture.

40 E. IF A RELEASE OF A SECURITY INTEREST THAT, ACCORDING TO ITS TERMS,
41 RECITES THAT IT SECURES AN OBLIGATION HAVING A STATED INDEBTEDNESS NOT
42 GREATER THAN FIVE HUNDRED THOUSAND DOLLARS EXCLUSIVE OF INTEREST HAS NOT BEEN
43 EXECUTED AND RECORDED WITHIN SIXTY DAYS OF FULL SATISFACTION OF THE
44 OBLIGATION SECURED BY THE SECURITY INTEREST, A TITLE INSURER AS DEFINED IN
45 SECTION 20-1562 MAY PREPARE, EXECUTE AND RECORD A FULL RELEASE OF THE

1 SECURITY INTEREST. AT LEAST THIRTY DAYS BEFORE ISSUING AND RECORDING A
2 RELEASE PURSUANT TO THIS SUBSECTION, THE TITLE INSURER SHALL MAIL BY
3 CERTIFIED MAIL WITH POSTAGE PREPAID, RETURN RECEIPT REQUESTED, TO THE HOLDER
4 OF THE SECURITY INTEREST CONTAINED IN THE AFFIDAVIT OF AFFIXTURE AT THE LAST
5 KNOWN ADDRESS SHOWN OF RECORD AND TO ANY PERSONS WHO ACCORDING TO THE RECORDS
6 OF THE TITLE INSURER RECEIVED PAYMENT OF THE OBLIGATION AT THE ADDRESS SHOWN
7 IN THE RECORDS, A NOTICE OF ITS INTENTION TO RELEASE THE SECURITY INTEREST
8 ACCOMPANIED BY A COPY OF THE RELEASE TO BE RECORDED. THE RELEASE SHALL SET
9 FORTH:

10 1. THE NAME OF THE HOLDER OF THE SECURITY INTEREST OR ANY SUCCESSORS
11 IN INTEREST OF RECORD OF THE SECURITY INTEREST AND, IF KNOWN, THE NAME OF ANY
12 SERVICING AGENT.

13 2. THE NAME OF THE OWNER OF THE PROPERTY SHOWN ON THE AFFIDAVIT OF
14 AFFIXTURE.

15 3. THE NAME OF THE CURRENT RECORD OWNER OF THE PROPERTY.

16 4. THE RECORDING REFERENCE TO THE AFFIDAVIT OF AFFIXTURE.

17 5. THE DATE AND AMOUNT OF PAYMENT, IF KNOWN.

18 6. A STATEMENT THAT THE TITLE INSURER HAS ACTUAL KNOWLEDGE THAT THE
19 OBLIGATION SECURED BY THE SECURITY INTEREST HAS BEEN PAID IN FULL.

20 F. THE RELEASE OF SECURITY INTEREST MAY BE EXECUTED BY A DULY
21 APPOINTED ATTORNEY-IN-FACT OF THE TITLE INSURER, BUT SUCH DELEGATION DOES NOT
22 RELIEVE THE TITLE INSURER FROM ANY LIABILITY PURSUANT TO THIS SECTION.

23 G. A RELEASE ISSUED PURSUANT TO SUBSECTION E OF THIS SECTION IS
24 ENTITLED TO RECORDATION AND, WHEN RECORDED, CONSTITUTES A FULL RELEASE OF
25 SECURITY INTEREST.

26 H. IN ADDITION TO ANY OTHER REMEDY PROVIDED BY LAW, A TITLE INSURER
27 PREPARING OR RECORDING THE RELEASE OF SECURITY INTEREST PURSUANT TO
28 SUBSECTION E OF THIS SECTION IS LIABLE TO ANY PARTY FOR ACTUAL DAMAGE,
29 INCLUDING ATTORNEY FEES, THAT ANY PERSON MAY SUSTAIN BY REASON OF THE
30 ISSUANCE AND RECORDING OF THE RELEASE OF SECURITY INTEREST.

31 I. THE TITLE INSURER SHALL NOT RECORD A RELEASE OF SECURITY INTEREST
32 IF, BEFORE THE EXPIRATION OF THE THIRTY DAY PERIOD SPECIFIED IN SUBSECTION
33 E OF THIS SECTION, THE TITLE INSURER RECEIVES A NOTICE FROM THE HOLDER OR
34 SERVICING AGENT THAT STATES THAT THE SECURITY INTEREST CONTINUES TO SECURE
35 AN OBLIGATION.

36 J. THE TITLE INSURER MAY CHARGE A REASONABLE FEE FOR SERVICES TO THE
37 OWNER OF THE LAND OR OTHER PERSON REQUESTING A RELEASE OF SECURITY INTEREST,
38 INCLUDING SEARCH OF TITLE, DOCUMENT PREPARATION AND MAILING SERVICES
39 RENDERED, AND IN ADDITION MAY COLLECT OFFICIAL FEES.

APPROVED BY THE GOVERNOR MAY 21, 2002.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 22, 2002.

Passed the House April 3, 2002,

by the following vote: 50 Ayes,

7 Nays, 3 Not Voting

[Signature]
Speaker of the House

Norman L. Moore
Chief Clerk of the House

Passed the Senate April 24, 2002,

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

[Signature]
President of the Senate

Charmine Bellington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

H.B. 2071

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

May 15, 2002,

by the following vote: 57 Ayes,

1 Nays, 2 Not Voting

[Signature]
Speaker of the House

[Signature]
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

15 day of May, 2002

at 3:00 o'clock P. M.

[Signature]
Secretary to the Governor

Approved this 26th day of

May, 2002,

at 10:11 o'clock A. M.

[Signature]
Governor of Arizona

H.B. 2071

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 22 day of May, 2002

at 12:13 o'clock P. M.

[Signature]
Secretary of State